

## HOUSE BILL NO. 394

INTRODUCED BY P. CLARK

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE FISH AND WILDLIFE PROTECTION ACT; PROVIDING FOR THE PROTECTION OF FISH AND WILDLIFE IN ENVIRONMENTAL PERMITTING DECISIONS AND PROTECTING THE ECONOMY DEPENDENT ON FISH AND WILDLIFE; REQUIRING THE MITIGATION OF IMPACTS AND AUTHORIZING THE CONDITIONING OF STATE GOVERNMENT ACTIONS THAT MAY HAVE SIGNIFICANT IMPACTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Short title.** [Sections 1 through 7] may be cited as the "Fish and Wildlife Protection Act".

**NEW SECTION. Section 2. Findings and purpose.** (1) The legislature finds that healthy and diverse fish and wildlife populations are a critical component of the ecological system of the state that:

(a) significantly impacts the extraordinary quality of life of the state's citizens and communities;

(b) contributes to Montana's valuable hunting and fishing heritage and its recreational opportunities; and

(c) provides significant revenue, taxes, and jobs through the recreation and tourism industries.

(2) The legislature finds that it is necessary to encourage productive and enjoyable harmony between the people of the state and proposed actions that may significantly impact the fish and wildlife of the state. The legislature declares that it is the public policy of this state to further the protection of its fish and wildlife resources for the benefit of all citizens.

(3) The purpose of [sections 1 through 7] is to:

(a) protect fish and fish habitat from significant impacts that may result from proposed actions;

(b) protect wildlife and wildlife habitat from significant impacts that may result from proposed actions;

(c) maintain and enhance the quality of life for the citizens of the state;

(d) ensure the economic growth and well-being of businesses and employees who are dependent on healthy fish and wildlife resources;

(e) facilitate the enjoyment of the natural attractions of the state;

(f) foster conditions and decisionmaking that minimize adverse impacts on fish and wildlife populations and habitats; and

(g) fulfill the social, cultural, and other requirements of present and future generations of Montanans.

**NEW SECTION. Section 3. Definitions.** For the purposes of [sections 1 through 7], the following definitions apply:

(1) "Action" means:

(a) a project, program, or activity directly undertaken by a state agency;

(b) a project or activity supported through a contract, grant, subsidy, loan, or other form of funding assistance from a state agency, either singly or in combination with one or more other state agencies; or

(c) the issuance by the state of a lease, permit, license, certificate, or other authority to act that is subject to review pursuant to Title 75, chapter 1, part 2, and the rules adopted to implement that part.

(2) "Environmental review" means an environmental assessment, environmental impact statement, or other written analysis required under Title 75, chapter 1, parts 1 through 3, by a state agency of a proposed action to determine, examine, or document the effects and impacts of the proposed action on the quality of the human and physical environment.

(3) "Mitigate" means to:

(a) avoid an impact by not taking a certain action or parts of an action;

(b) minimize impacts by limiting the degree or magnitude of an action or its implementation;

(c) rectify an impact by repairing, rehabilitating, or restoring the affected fish, fish habitat, wildlife, or wildlife habitat; or

(d) reduce or eliminate an impact over time by preservation and maintenance operations during the life of an action or during the time period that an impact continues.

(4) "Wildlife" means any wild mammal, bird, reptile, amphibian, or other wild animal or the egg or offspring of the animal.

**NEW SECTION. Section 4. General directions.** The legislature authorizes and directs state agencies to condition a proposed action if the action may result in a significant adverse impact on fish or fish habitat or wildlife or wildlife habitat as documented in an environmental review. The conditions imposed on a proposed action must be designed to mitigate the adverse impacts to the fullest extent possible, except that the conditions

1 may not result in the total rejection of the proposal.

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3 **NEW SECTION. Section 5. Specific statutory obligations unimpaired.** [Sections 1 through 7] may  
4 not affect the specific statutory obligations of a state agency to:  
5 (1) comply with criteria or standards of environmental quality;  
6 (2) coordinate or consult with any other state or federal agency; or  
7 (3) act or refrain from acting contingent upon the recommendation or certification of any other state or  
8 federal agency.

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10 **NEW SECTION. Section 6. Policies and goals supplementary.** The policies and goals set forth in  
11 [sections 1 through 7] are supplementary to those set forth in existing authorizations of all boards, commissions,  
12 and agencies of the state.

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14 **NEW SECTION. Section 7. Private property protection.** [Sections 1 through 7] do not expand or  
15 diminish private property protections afforded in the United States or Montana constitution.

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17 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 7] are intended to be  
18 codified as an integral part of Title 87, chapter 5, and the provisions of Title 87, chapter 5, apply to [sections 1  
19 through 7].

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21 **NEW SECTION. Section 9. Effective date.** [This act] is effective on passage and approval.

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